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IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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THERESA A. FULKS,

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No. C 04-03219 MJJ

Plaintiff,

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**ORDER DENYING DEFENDANT'S
MOTION TO AMEND OR ALTER
JUDGMENT**

v.

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JO ANNE B. BARNHART,

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Defendant.

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Before the Court is Defendant's motion to amend or alter judgment pursuant to Federal Rule

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of Civil Procedure 59(e). "Amendment or alteration is appropriate under Rule 59(e) if (1) the

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district court is presented with newly discovered evidence, (2) the district court committed clear

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error or made an initial decision that was manifestly unjust, or (3) there is an intervening change in

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controlling law." *Zimmerman v. City of Oakland*, 255 F.3d 734, 740 (9th Cir. 2001) (citations

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omitted). There may also be other, highly unusual, circumstances warranting reconsideration. *Sch.*

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Dist. No. 1J v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993).

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Defendant contends that the Court committed error by finding that the ALJ did not consider

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all of Plaintiff's impairments in combination. Defendant also asserts that the Court erred by finding

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that the ALJ improperly rejected Dr. Alvarez and Dr. Neuwelt's medical opinions. Finally,

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Defendant argues that the Court committed error by finding that the ALJ improperly

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assessed Plaintiff's credibility.

Upon consideration of Defendant's arguments, the Court finds that Defendant has not

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demonstrated grounds for relief under Rule 59(e). Defendant has failed to demonstrate that the

Court misapprehended the underlying facts or committed a manifest error of law. Nor has defendant

shown that there is newly discovered evidence. Accordingly, Defendant's motion to alter or amend

judgment is **DENIED**.

    IT IS SO ORDERED

Dated: September__19__, 2005

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MARTIN J. JENKINS
UNITED STATES DISTRICT JUDGE

United States District Court
For the Northern District of California

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